

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Wolk

February 23, 2007

An act to amend Section 103 of, to amend the heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of, and to add Section 2301 to, the Fish and Game Code, relating to fish and game, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as amended, Wolk. Fish and game.

(1) Existing law provides for the compensation of members of the Fish and Game Commission, including their actual and necessary expenses. Existing law requires the commission, on or before July 1, 2000, to submit certain recommendations to the Legislature relating to the commission.

This bill would delete that obsolete recommendation requirement.

(2) Existing law generally prohibits the sale, possession, importation, transportation, transfer, live release, or giving away without consideration, of the saltwater algae of the *Caulerpa* species, and subjects any person who violates that prohibition to a civil penalty of not less \$500 and not more than \$10,000 for each violation.

This bill, except as otherwise authorized by the Department of Fish and Game, would prohibit a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid

mussels. The bill would authorize the Director of Fish and Game or his or her designee to conduct inspections of conveyances, including vehicles, boats and other watercraft, and trailers, that may carry or contain adult or larval dreissenid mussels; order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department; impound or quarantine conveyances for a period of time necessary to ensure that the dreissenid mussels can no longer live on or in the conveyance; and conduct inspections of facilities that use or discharge water that may contain dreissenid mussels and, if detected, order the closure or quarantine of, or otherwise restrict access to, specified facilities. The director could authorize other state agencies to exercise this authority upon a prescribed written determination by the director. A person who violates these provisions would be subject to a penalty, in an amount not to exceed \$1,000, that is imposed administratively by the department. The department would be authorized to adopt regulations to carry out these provisions. Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Mussels of the genus *Dreissena* (dreissenid mussels) are
- 4 harmful, highly invasive species, and not native to California.
- 5 (b) Dreissenid mussels, which include both zebra and quagga
- 6 mussels, were first discovered in the United States in the Great
- 7 Lakes in or around 1988. This infestation has caused billions of
- 8 dollars in costs to public agencies and private industry. Dreissenid

1 mussels have been detected in Lake Mead on the Arizona-Nevada
2 border and in Lake Havasu in California.

3 (c) Dreissenid mussels can readily move from place to place as
4 free-swimming larvae and adults, and reproduce rapidly and in
5 large numbers. Dreissenid mussels can severely hinder the delivery
6 of water due to the mussels' capacity to clog or foul pipes, pumps,
7 and other water intake structures, water delivery systems,
8 powerplant intakes, cooling systems, and fish screens. Dreissenid
9 mussels damage the hulls, propellers, and motors of boats and
10 other watercraft.

11 (d) Dreissenid mussels alter the natural food web of aquatic
12 ecosystems. By filtering planktonic algae and other nutrients that
13 are the primary base of the food chain from the water, dreissenid
14 mussels can cause the decline or extirpation of native species, and
15 otherwise disrupt the ecological balance of infested water bodies.

16 (e) Dreissenid mussels' sharp-edged shells along swimming
17 beaches can be a hazard to unprotected feet.

18 (f) In order to protect and preserve the health and safety of the
19 people of the State of California, its economy, and its fish and
20 wildlife resources, it is the intent of the Legislature to establish an
21 effective program to prevent additional dreissenid mussels from
22 entering the state, to prevent dreissenid mussels from being
23 introduced into any water in California where they currently do
24 not exist, and to detect and destroy mussels anywhere in the state.
25 For this purpose, there has been developed a Quagga Mussel
26 Incident Strategic Plan.

27 SEC. 2. Section 103 of the Fish and Game Code is amended
28 to read:

29 103. (a) Each of the commissioners shall receive one hundred
30 dollars (\$100) for each day of actual service performed in carrying
31 out his or her official duties pursuant to law, but the amount of
32 this compensation shall not exceed for any one commissioner the
33 sum of five hundred dollars (\$500) for any one calendar month.
34 In addition to this compensation, the commissioners shall receive
35 their actual and necessary expenses incurred in the performance
36 of their duties.

37 (b) The compensation and expenses provided in this section
38 shall be paid out of the Fish and Game Preservation Fund.

SEC. 3. The heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of the Fish and Game Code is amended to read:

CHAPTER 3.5. AQUATIC INVASIVE SPECIES

SEC. 4. Section 2301 is added to the Fish and Game Code, to read:

2301. (a) (1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, and trailers, that may carry or contain adult or larval dreissenid mussels.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for a period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D) (i) Conduct inspections of facilities that use or discharge water that may contain dreissenid mussels. If dreissenid mussels are detected, the director or his or her designee may order the closure or quarantine of, or otherwise restrict access to, waters, marinas, boat launch facilities, or other areas or facilities in the state where dreissenid mussels are found or may be present.

(ii) For the purpose of implementing clause (i), the director or his or her designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(b) (1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c) (1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) In addition to any other penalty provided by law, any person who violates this section, or any order or regulation adopted pursuant to this section, is subject to a penalty, in an amount not to exceed one thousand dollars (\$1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(e) The department may adopt regulations to carry out this section.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to minimize the adverse impacts caused by dreissenid mussels, including impacts on water service deliveries, watercraft,

- 1 *recreational swimmers, and aquatic ecosystems, as soon as*
- 2 *possible, it is necessary that this act take effect immediately.*